

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN RAY LEWIS,

Plaintiff,

v.

STATE OF CALIFORNIA, *et al.*,

Defendants.

Case No. 2:21-cv-01575-DAD-JDP (PS)

FINDINGS AND RECOMMENDATIONS

THAT THE CASE BE DISMISSED FOR
FAILURE TO PROSECUTE, FAILURE TO
STATE A CLAIM, AND FAILURE TO
COMPLY WITH COURT ORDERS

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On May 19, 2022, I screened plaintiff's complaint and notified him that it failed to state a claim. ECF No. 3. I granted him thirty days to file an amended complaint. Plaintiff failed to timely file an amended complaint. Accordingly, on December 2, 2022, I ordered him to show cause within fourteen days why this action should not be dismissed for failure to prosecute and failure to state a claim. ECF No. 6. I notified him that if he wished to continue with this lawsuit, he must file an amended complaint. I also warned plaintiff that failure to comply with the December 6 order would result in a recommendation that this action be dismissed. *Id.*

Plaintiff did not file an amended complaint, but instead filed both a notice indicating that his complaint had never been "ruled upon" and that charges pending against him in the Shasta

1 County Superior Court had been dropped, ECF No. 7, and a request for status, ECF No. 8. On
2 December 13, 2023, I directed the Clerk of Court to send plaintiff a courtesy copy of the May 19,
3 2022 order and allowed plaintiff thirty days to file an amended complaint. ECF No. 9. When
4 plaintiff had not timely filed an amended complaint, I issued a second order to show cause on
5 February 6, 2024. ECF No. 10. The order granted plaintiff fourteen days to file an amended
6 complaint and to explain why this case should not be dismissed for failed to file an amended
7 complaint. *Id.*

8 The deadline has passed, and plaintiff has not filed an amended complaint or otherwise
9 responded to the court's orders. Accordingly, it is hereby RECOMMENDED that:

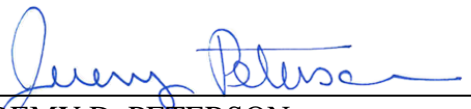
10 1. This action be dismissed without prejudice for failure to prosecute, failure to comply
11 with court orders, and failure to state a claim.

12 2. The Clerk of Court be directed to close the case.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
18 objections shall be served and filed within fourteen days after service of the objections. The
19 parties are advised that failure to file objections within the specified time may waive the right to
20 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
21 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

22
23 IT IS SO ORDERED.

24 Dated: May 2, 2024


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE